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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,367	04/22/2004	Hiroyuki Furukawa	1075.1261	7066
21171	7590	11/23/2004	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			HEALY, BRIAN	
			ART UNIT	PAPER NUMBER
			2883	

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/829,367

Applicant(s)

FURUKAWA ET AL.

Examiner

Brian M. Healy

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 and 13 is/are allowed.
- 6) ☒ Claim(s) 1,4,5 and 11 is/are rejected.
- 7) ☒ Claim(s) 2,3,6,7 and 9-11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11162004.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: Brian Healy

DETAILED ACTION

Allowable Subject Matter

Claims 2-3, 6-7 and 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art of record, i.e. Tsuchiya et. al., U.S.P. No. 5,448,390 (discussed below) does not teach or suggest an optical receiver (including the limitations of claim 1) wherein the transmitted wavelength bandwidth which passes through the transmittable wavelength variable filtering means is narrower than channel spacing of the WDM signals. Also none of the references of record teaches or suggests an optical transmission device of claim 5 with the further limitation of an optical amplifier interposed between one of two or more optical receivers. These limitations are recited in claims 2-3,6-7 and 9-11 and they are considered to be patentable over the prior art of record.

Claims 12 and 13 are allowed over Tsuchiya et. al. (discussed below) and all of the prior art of record. The optical receiver for use in an wavelength division multiplexer that includes a variable wavelength filtering means which allows a light signal in a given transmittable wavelength bandwidth being narrower than channel spacing of the WDM signals and control means which controls a maximum transmitted wavelength through the variable wavelength filtering means, as is taught by claims 12 and 13.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuchiya et. al., U.S.P. No. 5,448,390.

Tsuchiya et. al. '390 teaches (Figs.1-7) an optical wavelength division multiplexer/demultiplexer device that includes at least two optical receivers 14, an optical input/output port 10 that transmits incoming and outgoing wavelength division multiplexing light signals, a transmittable wavelength variable filtering means 15 which allows or permits a light signal in a predetermined wavelength bandwidth to pass therethrough, a central wavelength of the transmittable wavelength bandwidth being a desired wavelength; an optical output port A₀, A₁ which outputs the desired wavelength while not passing other wavelengths (Note the filter can be a reflective type filter) and a control means 25 used with optical transmitters 13a that controls the transmitted wavelength and the filter means such that the level of the light signal passing through the transmittable-wavelength-variable filtering means is the maximum, which clearly, fully meets Applicant's claimed limitations.


A copy of PTO-1449 will be included in this office action.

The following references are also cited by the Examiner as being pertinent prior art: Majima et. al., U.S.P. No. 5,552,919 (Figs.1-13), Kosaka et. al., U.S. Patent Application Publication No. U.S. 2003/0193714A1 (Figs.1-11), Kai et. al., U.S. Patent Application Publication No. U.S. 2003/0179988A1 (Figs.1-16) and Onaka et.al., U.S.P. No. 6,359,726 (Figs.1-18).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian M. Healy whose telephone number is (571)272-2347. The examiner can normally be reached on Compressed Tues-Thurs. 7AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on (571)272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brian Healy
Primary Examiner

Brian M. Healy
Primary Examiner
Art Unit 2883